

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KATIE L. BURCHAM, as Personal)
Representative of the Estate of William K.)
Mattson,)

Plaintiff,)

vs.)

NORTH CENTRAL TRANSPORTATION,)
INC., a North Dakota Corporation, DEBBIE)
J. SOLLENBERGER, an individual, and)
KENT D. KINCANON, an individual,)

Defendants.)

CASE NO.

COMPLAINT AND JURY DEMAND

Plaintiff Katie L. Burcham, Personal Representative of the Estate of William K. Mattson, by and through her attorneys, Rembolt Ludtke LLP and Seiler & Parker P.C., L.L.O., for her cause of action against Defendants North Central Transportation, Inc., Debbie J. Sollenberger, and Kent D. Kincanon alleges and states:

REQUEST FOR JURY TRIAL IN LINCOLN, NEBRASKA

1. Plaintiff respectfully requests a jury trial in Lincoln, Lancaster County, Nebraska.

PARTIES

2. Katie L. Burcham (“Plaintiff”) is of legal age and is the duly appointed, qualified, and acting Personal Representative of the Estate of William K. Mattson (“Decedent”), having been appointed by the Kenai Superior Court in the State of Alaska on December 10, 2009. Plaintiff is the daughter of Decedent. Plaintiff is and during all times relevant hereto has been a resident of Kenai Peninsula County, Alaska. Plaintiff brings this action as Personal Representative for the benefit of Decedent’s Estate and the next of kin and heirs at law of Decedent.

3. Defendant North Central Transportation, Inc. (“North Central Transportation”) is a North Dakota Corporation with its principal place of business in Mandan, Morton County, North Dakota, doing business at all times relevant herein with respect to the matters alleged herein in the State of Nebraska.

4. Defendant Debbie J. Sollenberger (“Sollenberger”) is a resident of Mercer County, North Dakota.

5. Defendant Kent D. Kincanon (“Kincanon”) is a resident of Hall County, Nebraska.

6. At all times relevant hereto, Defendant Sollenberger was an employee of North Central Transportation and was acting in the course and scope of her employment with North Central Transportation.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between Plaintiff and Defendants and because the amount in controversy exceeds \$75,000 as to Plaintiff.

8. Venue in the United States District Court for the District of Nebraska is proper under 28 U.S.C. § 1391.

FACTUAL BACKGROUND

9. The provisions of 49 C.F.R. §§ 301-399, commonly referred to as the “Federal Motor Carrier Safety Regulations” or “FMCSR” are applicable to this case and North Central Transportation and Sollenberger were required to comply with these regulations at the time of the collision and at all relevant times prior to the collision.

10. On November 8, 2009, Kincanon was operating his 2005 Honda vehicle, traveling westbound on Interstate 80 in Hamilton County, Nebraska.

11. On November 8, 2009, Decedent was the passenger in a 2008 Volvo vehicle owned by himself and being operated by Decedent’s wife, Jane L. Mattson, traveling westbound on Interstate 80 in Hamilton County, some distance behind Kincanon’s vehicle.

12. On November 8, 2009, Sollenberger was operating a semi-tractor and semi-trailer (together, the “Semi-Truck”) owned by North Central Transportation, traveling westbound on Interstate 80 in Hamilton County, some distance behind Decedent’s vehicle, in the course and scope of Sollenberger’s employment with North Central Transportation.

13. On November 8, 2009, Kincanon lost control of his vehicle after apparently striking a deer, moved to the far right shoulder of the road, then came back onto the road, slowing and possibly coming to a complete stop in the left lane of traffic.

14. Decedent’s wife slowed the vehicle in response to the actions of the Kincanon vehicle, made minor contact with Kincanon’s vehicle and came to a rest alongside Kincanon’s vehicle.

15. Shortly thereafter, North Central Transportation's Semi-Truck slammed into Decedent's vehicle.

16. As a result of the collision, Decedent sustained severe personal injuries, which resulted in his death.

17. Decedent's injuries and resulting death were a direct and proximate result of Sollenberger's and Kincanon's negligence.

18. Sollenberger's negligence is imputed to North Central Transportation because her negligence occurred within the course and scope of her employment.

**FIRST CAUSE OF ACTION
MEDICAL, FUNERAL, AND BURIAL EXPENSES**

19. Plaintiff incorporates Paragraphs 1 through 18 above as fully set forth herein.

20. As a direct and proximate result of Decedent's death, Plaintiff as Personal Representative incurred funeral and burial expenses in the amount of \$12,583.86.

**SECOND CAUSE OF ACTION
WRONGFUL DEATH**

21. Plaintiff incorporates paragraphs 1 through 20 above as if fully set forth herein.

22. As a direct and proximate result of the negligence of North Central Transportation, Sollenberger and Kincanon, Decedent was killed.

23. Decedent was 66 at the time of his death.

24. Decedent's death has caused Decedent's next of kin and heirs at law to suffer the loss of Decedent's comfort, companionship, service, society, contributions, counseling, advice, love, and affection, all to the general damage of Decedent's next of kin and heirs at law.

WHEREFORE, Plaintiff prays for a judgment against Defendants, joint and severally, for special damages in the amount yet to be determined; for general damages in an amount yet to be

determined; for \$12,583.86 for funeral and burial expenses incurred by Plaintiff; for prejudgment interest on any judgment as allowed by law; for post-judgment interest; and for her costs expended herein.

DATED this 28th day of October, 2011.

Katie L Burcham, as Personal
Representative for the Estate of William K.
Mattson, Plaintiff

By: /s/
Peter C. Wegman (#16685)
Mark R. Richardson (#24719)
REMBOLT LUDTKE LLP
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508
(402) 475-5100
pwegman@remboltludtke.com
mrichardson@remboltludtke.com

By: /s/
Robert Parker (#19108)
SEILER & PARKER, P.C., L.L.O.
726 Eastside Blvd.
P.O. Box 1288
Hastings, NE 68902-1288
(402) 463-3125
rparker@hastingslawfirm.com

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